REMARKS

Claims 47-58 are pending. Claim 56 was amended to correct an obvious error in its dependency.

Election of Claims

Applicants elect Group I, claims 47-49, 51-54 and 57-58. The election is with traverse.

Reasons for Traversal

Groups I and II constitute two different subcombinations usable with each other and are species of a common (related) invention. Restriction is thus not proper under MPEP 806.04(b).

Contrary to the Examiner's assertion, Group II has no separate utility apart from Group I because there can be no de-interleaving without interleaving.

In the Office Action, the Examiner provides the following explanation to support the separate utility:

> ...invention Group I has separate utility such as for interleaving data in a turbo-encoder to randomize data before encoding with a recursive systematic convolutional code to create a turbo code. In the instant case, invention Group II has separate utility such as for improving burst error correction. See MPEP § 806.05(d) (underlining added for emphasis)

First, none of the underlined language is recited in any of the pending claims. Some of the language referred to by the Examiner appeared in previously canceled claims. The currently pending claims do not specify any particular use, except for the generic functions of interleaving and de-interleaving.

Second, MPEP § 806.05(d) explicitly states that "[c]are should always be exercised...to determine if the several subcombinations are generically claimed. See MPEP § 806.04(b)." MPEP § 806.04(b) reads as follows:

> Species, while usually independent, may be related under the particular disclosure. Where inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to other types of restrictions such as those covered in **MPEP § 806.05 - § 806.05(i)**. If restriction is improper under either practice, it should not be required.

The present situation falls squarely within MPEP § 806.04(b), and thus restriction is improper, regardless of whether the Examiner can show that the two embodiments have acquired a separate status in the art as shown by potentially different classifications.

Prompt examination of claims 47-58 is respectfully requested.

Respectfully submitted,

Yan-Xiu Zheng et al.

Sept. 19, 2005 By: Clark Jablon
(Date)

CLARK A. JABLON
Registration No. 35,039
AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
2005 Market Street - Suite 2200
Philadelphia, PA 19103-7086
Telephone: (215) 965-1200
Direct Dial: (215) 965-1293
Facsimile: (215) 965-1210
E-Mail: cjablon@akingump.com

CAJ:gem